

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN**

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KATHRYN KNOWLTON et. al.,

Plaintiffs,

v.

Case No. 20 CV 01660

CITY OF WAUWATOSA et. al,

Defendants.

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**PLAINTIFFS' STATEMENT OF PROPOSED MATERIAL FACTS IN SUPPORT OF  
THEIR MOTION FOR PARTIAL SUMMARY JUDGMENT**

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Plaintiffs Kathryn Knowlton, et. al., respectfully submit this Statement of Proposed Material Facts in Support of Their Motion for Partial Summary Judgment.

1. On October 6, 2020 Dominick Ratkowski sent Christian Berges, a Data Analyst who works at Marquette University, the list of protestors which he referred to as the TPR Target List hereinafter ("Target List"). See DF Bates 25052 (Exhibit 5 – Ratkowski Email to Christian Berges)
2. Dominick Ratkowski knowingly obtained "personal information" and "highly personal information" as defined by the Driver's Privacy Protection Act ("DPPA"), 18 U.S.C. §2721 of the Forty-eight Plaintiffs whom he put on the Target List ("Target List Plaintiffs") which included Plaintiffs DOT pictures, dates of birth, gender, race, and addresses from their motor vehicle records. (Exhibit #1 Target List). (Exhibit 9 - Deposition of Dominick Ratkowski 7/27/21 pg. 42, 48, 51)
3. The forty-eight Target List Plaintiffs whose personal information was put on the Target List are: Andrew Aaron, Robert Agnew, Kamila Ahmed, Isiah Baldwin, Jacqueline Bogenberger, Lavita Booker, Rebecca Burrell, Raine Cich, Khalil Coleman, Tahudah Cole, Taleavia Cole, Tracy Cole, Steven Conklin, Lauren Cross, Erik Fanning, Jessica Fenner, Breon Foster, Christine Groppi, Gaige Grosskreutz, Joseph Hayes, Adante Jordan, Mary Kachelski, Sean Kafer, Joseph Koepp, John Larry, Alex Larson, Sonora Larson, Van Mayes, Molly Nilssen, Shawn Page, Carmen Palmer, D.P., C.P., Oscar Concepcion Rodriguez, Rosalind Rogers, Madeline Schiweitzer, Mariah Smith, Peter Sparks, Tiffany Stark, Angel Vega, Gabriella Vitucci, Tristiana Walls, Oscar Walton, Jayden Welch, Britta Welch, Brandon Wilborn, Trisha Wilson, and Kathelyn Wojnar. (Exhibit #1 Target List).

4. Ratkowski, created the Target List on his own and no one instructed him to create the Target List ((Exhibit 6 - Deposition of Dominick Ratkowski 6/23 – pg. 82)
5. The pictures on the left of the Target List were obtained from Plaintiffs DOT records. (Exhibit 9 - Deposition of Dominick Ratkowski 7/27/21 pg. 51)
6. Dominick Ratkowski did not have the written consent of any of the 48 Plaintiffs to disclose their personal information from their motor vehicle records. (Exhibit 9 - Deposition of Dominick Ratkowski 7/27/21 pg. 101)
7. Being put on the target list did not require a person to have been violent nor did it require that they had potentially committed a crime. (Exhibit 6 - Deposition of Dominick Ratkowski 6/23/21 pg. 83).
8. Being put on the Target List was based on “mere affiliation with a protest” and that Plaintiffs were put on it “simply based on affiliation.” (Exhibit 6 - Deposition of Dominick Ratkowski 6/23/21 pg. 83).
9. Dominick Ratkowski did not put any people on the Target List affiliated with “Whites for Wauwatosa” or any “pro-Trump/right wing extremists. (Exhibit 6 - Deposition of Dominick Ratkowski 6/23/21 pg. 82 - 83).
10. Dominick Ratkowski gave the Target List to the Milwaukee Police Department and the FBI. (Exhibit 6 - Deposition of Dominick Ratkowski 6/23/21 pg. 102).
11. Dominick Ratkowski gave the Target List 10 to 12 different agencies. In addition to sharing it with the FBI and the MPD that he shared it with the “Milwaukee County Sheriff, Marquette University, Oak Creek, Racine Police Department, Racine Sheriff’s, Greenfield Police Department, Brookfield” the “Burlington Police Department” and the “Milwaukee District Attorney’s Office” (Exhibit 9 - Deposition of Dominick Ratkowski 7/26/21 pg. 28 and 29).
12. Eighteen (18) Wauwatosa Police Officers, fourteen (14) Wauwatosa city employees, and thirty-four (34) other persons who do not work for Wauwatosa, including three (3) persons who work for the FBI and no one who works for the Kenosha Police Department, received or had access the Target List. (Exhibit 17 - 072621 Defendant Ratkowski Response to Interrogatory No. 1); (Exhibit 16 - 12/5/22 - Jeffrey Farina Response to PL 2<sup>nd</sup> Set of Interrogatories served on June 26, 2021, Interrogatory No. 1.)
13. Ratkowski was the only person who could add people to the Target List. (Deposition of Dominick Ratkowski, p. 101 & 102– 6/23).
14. Adam Behnke did not make a request for the Target List any time prior to Ratkowski sending it to him on 7/13/20. (Exhibit 15 – 07/13/20 Ratkowski email to Behnke)

15. Brian Conte did not make a request for the Target List any time prior to Ratkowski sending it to him on 9/24/20. (Exhibit 10 – 09/24/20 Ratkowski email to Conte)
16. Jodi Borchardt and Rachel Seils did not make a request for the Target List any time prior to Ratkowski sending it to them on 11/10/20. (Exhibit 7 – 11/10/20 Ratkowski email to Borchardt and Seils).
17. Andrew Willis and Susan Conley did not make a request for the Target List any time prior to Ratkowski sending it to them on 11/10/20. (Exhibit 11 – 11/10/20 Ratkowski email to Willis and Conley).
18. On 11/10/2020 Defendant Ratkowski disclosed the Target List unsolicited, and referred to it as a “***list of known People’s Revolution Members***” to Jodi Borchardt and Rachel Seils. (Exhibit 7 – 11/10/20 Ratkowski email to Borchardt and Seils).
19. On 11/10/2020 Defendant Ratkowski disclosed the Target List unsolicited, and referred to it as a “***list of known People’s Revolution Members***” to Andrew Willis and Susan Conley. . (Exhibit 11 – 11/10/20 Ratkowski email to Willis and Conley).
20. On January 7, 2021 Defendant Joseph Roy released documents that contained the personal information of the of the following 49 Plaintiffs hereinafter referred to as “49 Plaintiffs” in response to open records requests, Andrew Aaron, Kamila Ahmed, Robert Agnew, Isiah Baldwin, Jacqueline Bogenberger, Rebecca Burrell (Wigley), Raine Cich, Khalil Coleman, Taleavia Cole, Steven Conklin, Anne Delessio-Parson, Rachel Dulay, Erik Fanning, Jill Ferguson, Breon Foster, Joanna Geisler, Joseph Hayes, Destiney Jones, Adante Jordan, Mary Kachelski, Sean Kafer, Kathryn Knowlton, Joseph Koepp, John Larry, Alex Larson, Sonora Larson, Lazarito Mathieu, Van Mayes, Dana McCormick, Molly Nilssen, Carmen Palmer, C.P., D.P., Leah Porter, William Rivera, Hector Rodriguez, Rosalind Rogers, Nathan Sabel, William Schroeder, Mariah Smith, Peter Sparks, Angel Vega, Christina Vitolo-Haddad, Gabriella Vitucci, Jayden Welch, Suzanne Wells, Brandon Wilborn, Katelyn Wojnar, and Sonja Worthy. ((See Exhibit 3 - 1/7/21 Citations Disclosed by Joseph Roy) (Exhibit 4 - 1/7/21 Police Reports Disclosed by Joseph Roy)
21. Defendant Roy on January 7, 2021 Joseph Roy wrote in his email where he provided the unredacted documents and videos that,  
  

“in response to your records request made pursuant to the provisions of the Wisconsin Public Records Law, Wis Stat §§19.31-39. The public policy in Wisconsin is to provide the public the greatest amount of access possible to public records. Wis. Stat § 19.31. The general presumption is that public records are open to the public unless there is a clear statutory or common law exception. If there is no statutory or common law exception, the custodian must “decide whether the strong presumption favoring access and disclosure is overcome by some even stronger public policy favoring limited access or nondisclosure” *Hempel v. City of Baraboo*, 2005 WI 120, 284 Wis2d 162, 699 NW2d 551. This decision is also commonly referred to as the “balancing test,” under Wis Stat §19.35(1)(a). Notwithstanding the presumption of openness, the public’s right to access public records

is not absolute. *Journal/Sentinel v. Aagerup*, 145 Wis. 2d 818, 429 N.W.2d 772 (Ct. App. 1988).” (See Exhibit 8 – January 7, 2021 Joseph Roy Open Records Email)

22. Defendant Roy Pursuant to an email sent on January 7, 2021 Joseph Roy wrote in his email that, the Dropbox link “contains all of the Wauwatosa Police Department police reports, citations, as well as our squad and body camera video, responsive to your request. Further, it contains the video and reports produced by agencies that assisted us during the emergency declaration period of October of 2020, that our in our possession as of today’s date.” (See Exhibit 8 – January 7, 2021 Joseph Roy Open Records Email)
23. On January 7, 2021 Joseph Roy provided unredacted documents containing the personal information from motor vehicle records of 49 Plaintiffs and wrote, “The documents and videos are being provided to you unredacted.” (See Exhibit 8 – January 7, 2021 Joseph Roy Open Records Email) (Exhibit 2 - Joseph Roy Deposition 7/26/21 – p.118 & 119)
24. On January 7, 2021 Joseph Roy disclosed by email unredacted videos and documents including personal information from motor vehicle records of 49 Plaintiffs to sixteen persons with email addresses of [tony.aria@tmj4.com](mailto:tony.aria@tmj4.com), [blodestone@gmail.com](mailto:blodestone@gmail.com), [Lezlie.Johnson@tmj4.com](mailto:Lezlie.Johnson@tmj4.com), [hmintz@wiscn.com](mailto:hmintz@wiscn.com), [colleenmariehenry@hotmail.com](mailto:colleenmariehenry@hotmail.com), [eschneider@nexushelps.com](mailto:eschneider@nexushelps.com), [peteasparks@gmail.com](mailto:peteasparks@gmail.com), [bryan.polcyn@FOX.com](mailto:bryan.polcyn@FOX.com), [mcollins@aclu-wi.org](mailto:mcollins@aclu-wi.org), [swaleslaw@gmail.com](mailto:swaleslaw@gmail.com), [mthomsen@gtwlawyers.com](mailto:mthomsen@gtwlawyers.com), [dmorganadams@gmail.com](mailto:dmorganadams@gmail.com), [bgutenschwager@gmail.com](mailto:bgutenschwager@gmail.com), [jfg@hallingcayo.com](mailto:jfg@hallingcayo.com), [isiah@wisconsinexaminer.com](mailto:isiah@wisconsinexaminer.com), and [kmotley@mtoleylegal.com](mailto:kmotley@mtoleylegal.com) (Exhibit 8 – January 7, 2021 Joseph Roy Open Records Email) (Exhibit 2 – Deposition of Joseph Roy on 7/26/21 – p. 118)
25. Plaintiffs’ personal information from the motor vehicle records which included their names, phone numbers, addresses, driver’s license identification numbers, dates of birth, weight, height, eye color, race, sex, and hair color was disclosed to no fewer than sixteen (16) members of the public in January of 2021 which included (See Exhibit 3 - 1/7/21 Citations Disclosed by Joseph Roy) (Exhibit 4 - 1/7/21 Police Reports Disclosed by Joseph Roy)
26. The method of disclosure by Defendant Roy was by email containing a drop box link. (Exhibit 8 – January 7, 2021 Joseph Roy Open Records Email)
27. There was no one above Defendant Roy who needed to approve the information being released. (Exhibit 2 – 7/26/21 Deposition of Joseph Roy– p. 121).
28. Defendant Roy did not have the express consent from any of the 49 Plaintiffs to disclose their personal information or their highly personal information obtained from their motor vehicle records. (Exhibit 2 –7/26/21 Deposition of Joseph Roy– p. 127).
29. Defendant Roy knew that info contained in the disclosure for January 7, 2021 contained personal info from driver’s license records. Came from DOT records or citations that the addresses and driver’s license numbers are “two pieces of information (that) are retrieved

through a person's driver's license record." (Exhibit 2 – 7/26/21 Deposition of Joseph Roy– pg. 104 & 105)

30. Defendant Roy knew that the personal information found on citations comes from the DOT. (Exhibit 2 – 7/26/21 Deposition of Joseph Roy, pg. 105)
31. Defendant Roy knew that biographical information typically found on citations and reports is routinely found in DMV records. (Exhibit 2 - 7/26/21 Deposition of Joseph Roy, pg. 95)
32. Defendant Roy knew that a home address should be protected from public disclosure. (Exhibit 2 - 7/26/21 Deposition of Joseph Roy, pg. 95)
33. For the January 7, 2021 disclosure of information the only person that Defendant Roy knew out of the sixteen people that he sent the unredacted documents and videos to, was K. Motley. (Exhibit 2 - 7/26/21 Deposition of Joseph Roy, pg. 118)
34. Defendant Roy understood that certain information is protected by the DPPA, as defined by the DPPA such as – is to be protected and is not supposed to be publicly disclosed. when asked he knew and agreed that information should not have been released publicly pursuant to the DPPA such as a "person's address," "phone number," "driver's license," "a person's date of birth, weight, height, (and) eye color." (Exhibit 2 - Joseph Roy Deposition 7/26/21 – p.47)
35. Defendant Roy was well trained and knew what "personally identifying information," was such as a complete date of birth is supposed to be redacted if it is release publicly and he "was trained" and "attended a training seminar" as well on other cases not related to this matter he "worked with the city attorney's office to redact information for public release." (Exhibit 2 - Joseph Roy Deposition 7/26/21 – p.49)
36. Joseph Roy redacted Target list. (Joseph Roy Deposition 7/26/21 – p.47)(Exhibit --- Properly Redacted Target List)
37. Defendant Roy knew a person's home address and driver's identification card numbers come from the DOT. (Exhibit 2 - Joseph Roy Deposition 7/26/21 – p. 102)
38. The City of Wauwatosa has no open records requests, notes, emails of any person with a corresponding email address of [blodestone@gmail.com](mailto:blodestone@gmail.com) requesting anything, including *anything regarding* the 49 Plaintiffs information or any information that was disclosed by Joseph Roy on January 7, 2021. (Exhibit 12 – Open Records Request) (Exhibit 13 – Defendant's Table of Open Records Request)
39. Daniel Adams did not request *any* of the 49 Plaintiffs information that was disclosed by Joseph Roy on January 7, 2021. (Exhibit 12, Open Records pg. 1)
40. Brenden Gutenschwager did not request *any* of the 49 Plaintiffs information that was

disclosed by Joseph Roy on January 7, 2021. (Exhibit 13, Defendant's Table of Open Records Disclosures, pg. 6 & 22)

41. Attorney Gutenberg did not request *any* of the 49 Plaintiffs information that was disclosed by Joseph Roy on January 7, 2021 and the citation Mr. Fraley was not a part of the documents released. (Exhibit 12, Open Records pg. 6)
42. Ms. Mintz did not request *any* of the 49 Plaintiffs information that was disclosed by Joseph Roy on January 7, 2021. (Exhibit 12, Open Records pg. 33 - 36)
43. Mr. Schneider did not request *any* of the 49 Plaintiffs information that was disclosed by Joseph Roy on January 7, 2021. (Exhibit 12, Open Records pg. 7 - 8)
44. Ms. Henry did not request *any* of the documents containing the 49 Plaintiffs personal information that was disclosed by Joseph Roy on January 7, 2021. (Exhibit 12, Open Records pg. 42)
45. Mr. Aria did not request *any* of the 49 Plaintiffs information that was disclosed by Joseph Roy on January 7, 2021. (Exhibit 12, Open Records pg. 31)
46. Attorney Wales did not request *any* of the other 48 Plaintiffs information that was disclosed by Joseph Roy on January 7, 2021. (Exhibit 12, Open Records pg. 37) (See Exhibit 3 – Citations Disclosed by Roy)
47. Attorney Mark Thomsen did not request *any* of the other 48 Plaintiffs' information that was disclosed by Joseph Roy on January 7, 2021 and Ms. Smith's Citation referenced was also not disclosed in the documents.. (Exhibit 12, Open Records pg. 31) (See Exhibit 3 – Plaintiffs Citations Disclosed by Roy)
48. Peter Sparks did not request *any* of the other 48 Plaintiffs information that was disclosed by Joseph Roy on January 7, 2021. (Exhibit 12, Open Records pg. 41)
49. Lezlie Johnson, was limited to incidents of October 8, 2020 and she received the link with all of 49 Plaintiffs personal information that was disclosed by Joseph Roy on January 7, 2021. (Exhibit 12, Open Records pg. 41)
50. Bryan Polcyn, did not request *any* of the other 27 Plaintiffs information that was disclosed by Joseph Roy on January 7, 2021. (Exhibit 12, Open Records pg. 41)
51. Isiah Holmes, did not request *all* of the 49 Plaintiffs information that was disclosed by Joseph Roy on January 7, 2021. (Exhibit 12, Open Records pg. 62-85)
52. Molly Collins, did not request *any* of the 49 Plaintiffs information that was disclosed by Joseph Roy on January 7, 2021. (Exhibit 12, Open Records pg. 25-28)

Respectfully submitted this 19<sup>th</sup> day of December, 2022.

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